

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

BILLY GENE MARSHALL,)	
)	
Plaintiff,)	
vs.)	NO. CIV-12-0009-HE
)	
CHARLES LEE, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Plaintiff, a state prisoner appearing *pro se* and *in forma pauperis*, filed this § 1983 action against eleven state correctional officials for alleged deprivations of his constitutional rights at the Oklahoma State Reformatory, where he is incarcerated. Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Gary M. Purcell, who has recommended that the motion for summary judgment¹ filed by defendants Bethea, Dennis, Ellis, and Lee be granted.² Plaintiff has objected to the Supplemental Report and Recommendation.

After conducting a *de novo* review, the court agrees with the magistrate judge's determination that plaintiff failed to exhaust his administrative remedies with respect to all the claims asserted in his complaint. The magistrate judge's conclusion was based on a

¹*The motion was a combined motion to dismiss and motion for summary judgment. Because the court considered matters outside of the pleadings, it treated the motion as one filed under Fed.R.Civ.P. 56.*


²*The court previously granted the motion for summary judgment filed by defendants Armstrong, Bear, Goodson, Haynes, Jones, Morton and Rudek [Doc. #38].*

thorough review of plaintiff's claims and the application of the exhaustion requirement of the Prison Litigation Reform Act to those claims. *See* 42 U.S.C. § 1997e(a).

Accordingly, the court **ADOPTS** Magistrate Judge Purcell's Supplemental Report and Recommendation [Doc. #39] and **GRANTS** defendants' motion for summary judgment [Doc. #35]. Judgment will be entered against plaintiff and in favor of defendants Bethea, Dennis, Ellis, and Lee.

IT IS SO ORDERED.

Dated this 21st day of February, 2013.



JOE HEATON
UNITED STATES DISTRICT JUDGE